

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

APPEAL NO.650 OF 1998
IN
NOTICE OF MOTION NO.1816 OF 1996
IN
SUIT NO.421 OF 1996

Suraj Estate Developers Pvt. Ltd.

..Appellant.
(Orig. Plaintiff)

Vs.

Maharashtra Grass Merchants & Ors.

..Respondents.
(Orig. Defendants)

....

Shri. Virag Tulzapurkar, Senior Advocate with Shri. J.S. Soloman
i/b Soloman & Co. for the Appellant.

Shri M. U. Pandey for the Respondents.

....

CORAM: R. M. S. KHANDEPARKAR, &
DR. D.Y. CHANDRACHUD, JJ.

25th January, 2007.

P.C. :

1. The learned advocate for the Appellant states that subsequent to the passing of the impugned order new developments have taken place and third party rights are sought to be created. The learned advocate for the Respondents has stated that such rights were created even prior to passing of the impugned order. Be as it may, the learned advocate appearing for

the Appellant has fairly submitted that in view of the subsequent events which have occurred, no purpose would be served in pursuing the matter, however, he has also submitted that the Appellant be protected to the extent that in case fresh cause of action arises in the matter and in case any proceedings in that regard are sought to be initiated, the Learned Single Judge shall dispose of the same without being influenced in any manner by any of the findings arrived at in the impugned order. The learned advocate for the Respondents has fairly submitted that in that case the matter could be disposed of with the said observation that in case new cause of action arises, without prejudice to the rights of the parties and without being influenced in any manner by the findings arrived at in the impugned order, the Learned Single Judge should dispose of any such new proceeding initiated in relation to any such new cause of action. The learned advocate for the Appellant has also disclosed that the Notice of Motion which was taken out for interim relief against the third party has already been withdrawn by the Appellant.

2. In view of what has transpired in the course of the argument and what is recorded as above, the Appeal is disposed

of with the observation that in case any fresh cause of action arises, more particularly in view of the subsequent events, either before or after the impugned order, after the initiation of the proceedings in the matter, any fresh proceedings are sought to be initiated by either of the parties, the Learned Single Judge shall dispose of the same in accordance with the provisions of law without being influenced in any manner by any of the findings arrived at in the impugned order. The Appeal accordingly stands disposed of with no order as to costs.

(R. M. S. KHANDEPARKAR, J.)

(DR. D.Y. CHANDRACHUD, J.)